IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10828 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MEHMOOD MIYA AKBAR MIYA

Versus

STATE OF GUJARAT

Appearance:

MR MURALI N DEVNANI for Petitioner

MR MUKESH A PATEL for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/03/2000

ORAL JUDGEMENT

1. All the three authorities concurrently held that the petitioner had cut 11 Babul trees from the land of Survey No. 121 of village Jargal. Learned Mamlatdar initiated proceedings under the provisions of Saurashtra Felling of Trees Act, 1951 and passed the order imposing

a fine of Rs.5500/= upon the petitioner.

2. The contention has been made by the learned counsel for the petitioner that the Mamlatdar has passed an ex-parte order. It has next been contended that the Deputy Collector ordered for initiation of criminal proceedings against the petitioner which amounts to double jeopardy.

3. Learned counsel for the respondents, on the other hand, contended that the petitioner himself has admitted in writing that he has cut 11 Babul trees. In view of this admission, what Shri Mukesh Patel contends that the judgment given by all the three authorities are perfectly legal and justified. So far as the order of the Deputy Collector to the extent where it observed that appropriate criminal proceedings may be initiated against the petitioner is concerned, Shri Mukesh Patel submits that this act of the petitioner if is a criminal act then appropriate proceedings can be initiated and not otherwise.

4. In rejoinder, learned counsel for the petitioner submitted that on blank paper the Circle Inspector has taken the signature of the petitioner and thereon this admission of the petitioner has been got prepared.

5. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

6. It is very easy to take such a plea that on plain paper the signature has been obtained. The petitioner's counsel has admitted that immediately on taking of this signature or immediately on knowing of this document, the petitioner has not filed any criminal complaint against that Inspector. Once the signature of the document has been admitted, heavy burden lies on the petitioner to prove that the contents thereof are not correct. In this case, the petitioner has failed to discharge this burden. Otherwise also, all the three authorities have concurrently held that the petitioner has cut 11 Babul trees and rightly a fine of Rs.5500/= has been imposed. I do not find any perversity in the orders of the authorities below. Otherwise also, the admission of the petitioner clinches the issue.

7. So far as the order of the Deputy Collector to the extent where it gives direction for lodging of the criminal complaint against the petitioner is concerned, suffice to say that if this act of the petitioner is a criminal in nature under some Act then proceedings can

always be lodged.

8. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

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zgs/-